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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,546	07/28/2000	Mikio Watanabe	0905-0245P-SP	3520

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EXAMINER	
SELBY, GEVELL V	

ART UNIT	PAPER NUMBER
2615	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/628,546	Applicant(s) WATANABE, MIKIO	
	Examiner Gevell Selby	Art Unit 2615	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *12,13,15 and 17*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *5-11*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the attached Response to Arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DAVID L. OMETZ
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/20/05 have been fully considered but they are not persuasive.

The applicant submits the prior art does not disclose the following limitations of the claimed invention:

1) "image processing apparatus includes: an instruction receiving device for receiving the image data reduction instruction sent from the first portable phone" as claimed in claim 5;

2) "at least one of the first portable phone and the image processing apparatus includes detecting means for detecting a data communication speed on the telephone line, and the data quantity reducing device of the image processing apparatus increases a quantity of data reduction when a slower communication speed is detected by the detecting means" as claimed in claim 6;

3) "the image data quantity reducing device reduces the data quantity of image data by compressing the image data according to a compression ratio higher than a compression ratio used to compress data in the recording of the data on the recording medium" as claimed in claim 8;

4) "the image data quantity reducing device compresses data in a method different from a data compression method employed in the recording of the image data on the recording medium" as claimed in claim 9;

5) "the first portable phone transmits, when the image data transmission mode is selected form the modes notified by the mode notifying device, the image data reduction instruction to the image processing apparatus" as claimed in claim 7;

6) "terminating the data quantity reduction processing by the image data quantity reducing device in response to reception of the print image data transmission instruction" as claimed in claim 11;

7) "the first image transmitting device of the image processing apparatus transmits the thumbnail image data when the data quantity of the image data after the reduction of image data by the data quantity reducing means is in the vicinity of a data quantity of the thumbnail image data" as claimed in claim 10. The Examiner respectfully disagrees.

Examiner's Reply:

Re claim 5) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the portable phone therein sends data quantity reducing instructions to the digital camera to control the data quantity to be transmitted to a second portable phone) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Fukuoka reference discloses an image processing apparatus includes the an instruction receiving device for receiving the image data reduction instructions remotely through the I/O card (see column 11, lines 15-17). The reference does not disclose that the instruction is

sent from the first portable phone. The Sacca reference teaches an image communication system (see figure 1A) in which an processing apparatus (100) and a first portable phone (108) can communicate data with each other and the first portable phone can communicate with a second portable phone (phone at remote location) via a telephone line (see column 10, line 65 to column 11, lines 2) and the first portable phone sends an image data reduction instruction to the image processing apparatus (see column 11, lines 2-17: the first phone receives the password instruction from the remote phone and sends it to the videofax), wherein the image processing apparatus includes:

an instruction receiving device for receiving the image data reduction instruction sent from the first portable phone (see column 11, lines 7-11); and

the first portable phone includes:

an image data receiving device for receiving the image data sent from the first image data transmitting device of the image processing apparatus (see figure 1A and column 11, lines 2-18: the videofax sends the image to the first telephone); and

a second image data transmitting device for transmitting via by the image data the telephone line the image data received receiving device (see figure 1A and column 11, lines 2-18: the first telephone sends the image to the remote phone).

It would have been obvious to one of ordinary skill in the art at the time of invention to have been motivated to modify Fukuoka in view of Sacca to have the image processing apparatus include an instruction receiving device for receiving the image data reduction instruction sent from the first portable phone, in order to let a remote user monitor their home or office by having the option of viewing high or low resolution images transmitted to them.

Re claim 6) It is implied the Fukouka reference discloses at least one of the first portable phone and the image processing apparatus includes detecting means for detecting a data communication speed on the telephone line, because the modem of the image processing apparatus must determine the communication speed to the phone line to properly connect to the network and transfer data. The Fukouka reference states that depending on the communication capabilities, the CPU selects operating parameters of the camera in order to make the best use of the available I/O capabilities. Communication speed is a communication capability just as bandwidth of the type of I/O card. It would have obvious to one of ordinary skill in the art at the time of invention to have the data quantity reducing device of the image processing apparatus increases a quantity of data reduction when a slower communication speed is detected by the detecting means, in order to make the best use of the available I/O capabilities.

Re claim 7) The Catanzaro reference was used to teach having a mode notifying device for the phone. The Sacca reference teaches the first portable phone transmits the image data reduction instruction to the image processing apparatus as described above. Therefore the combination of Fukouka, Sacca and Catanzaro discloses the first portable phone transmits, when the image data transmission mode is selected form the modes notified by the mode notifying device, the image data reduction instruction to the image processing apparatus.

Re claim 8) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the compression ratio of the image data quantity reducing device is determined based on a compression ratio used to compress data in the recording of data on a recording medium) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is clear that the compression device would use the lowest compression ratio in order to save the highest quality image for stored image data. It is also clear that there will be occasions when bandwidth limitations will cause a very low resolution image to be required for transmission (see column 12, lines 40-42). Therefore it is clear that there will be occasion in Fukuoka when the image data quantity reducing device reduces the data quantity of image data by compressing the image data according to a compression ratio higher than a compression ratio used to compress data in the recording of the data on the recording medium.

Re claim 9) It would have been obvious to one of ordinary skill in the art to modify the Fukuoka reference to have an image data quantity reducing device to compress image data to a higher compression ratio when bandwidth limitations will cause a very low resolution image be required for transmission as discussed above with regard to claim 8

Re claim 10) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the camera judges whether the data quantity of the image data after reduction is in the vicinity of the quantity of the thumbnail image data) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is inherent the combination of Fukuoka, Sacca, and Shiohara discloses that the first image transmitting device of the image processing apparatus transmits the thumbnail image data when the data quantity of the image data after the reduction of image data by the data quantity

reducing means is in the vicinity of a data quantity of the thumbnail image data, because the thumbnail data transferred is always exactly, not just in the vicinity of, a data quantity of the thumbnail image data by definition or else it would not be thumbnail data.

Re claim 11)The Fukuoka reference discloses the control means of the image processing apparatus send the image using the video signal output, without compressing the data. The Catanzaro reference discloses an image processing apparatus that controls the image to print on a video printer. It would have been obvious to one of ordinary skill in the art to modify the combination of Fukouka, Sacca, and Catanzaro to have a control means for terminating the data quantity reduction processing in response to reception of the print image data transmission instruction, in order to save time and battery power since the compressed data is not being used.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on 571-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs

DAVID L. OMETZ
SUPERVISORY PATENT
EXAMINER